

REMARKS/ARGUMENTS

Favorable reconsideration of the present application is respectfully requested.

In response to the objection thereto, the specification has been amended to identify the structure corresponding to the “means” recited in Claim 9.

Claims 1, 8 and 9 have been amended to clarify that the radial through hole extends entirely through the disc shape of the first magnet in a radial direction thereof, as is clear from the figures. This makes it possible to use a guidewire extending through the lateral hole to push the lateral circumferential side of the first magnet 2 through the fistula 7 as is shown in Fig. 2. Thus the first magnet is inserted laterally, which may be done with less pushing force than in the prior art (page 12, lines 10-15).

Claims 1, 5, 8 and 9 were rejected under 35 U.S.C. § 102 as being anticipated by SU 736,966, which is referred to at cols. 1-2 of Cope et al. However it is respectfully noted that the first magnet of SU ‘966 *lacks a radial through hole* extending entirely through the disc shape of the first magnet in a radial direction thereof so as to slidably insert the guide wire. Instead the guidewire of SU ‘966 extends through the *axial* through hole, and so it is the circular axial face of the first magnet – and not its lateral circumferential side -- that is evidently inserted into the fistula of the narrow region in the organ. Thus SU ‘966 fails to anticipate or render obvious Claims 1, 5 and 9 which recite “a first magnet formed in a disc shape and provided with a radial through hole extending entirely through the disc shape of the first magnet in a radial direction thereof so as to slidably insert the guide wire.”

SU ‘966 also fails to anticipate or render obvious Claim 8 which also recites the aforementioned feature and further recites a step of “pushing the *lateral circumferential side* of the first magnet having the radial through hole to which the guide wire inserted in the organ is inserted into a predetermined fistula of narrow region in the organ by the moving member and moving the first magnet forward.” Instead, as explained above, it is the circular

axial face of the first magnet of this reference – and not its lateral circumferential side -- that is evidently inserted into the fistula of the narrow region in the organ.

Claims 2-4 were rejected under 35 U.S.C. § 103 as being obvious over SU '966 in view of Hayhurst which was cited to teach a latch member and dissolvable vinculum. This rejection is respectfully traversed.

Applicants had previously explained that the bone anchor of Hayhurst is not analogous prior art because it does not address the problems facing the would-be inventor in an organ anastomosing apparatuses when orienting and positioning the magnets against the tissue such that they are magnetically attracted. Bone anchors are instead fixed elements surgically implanted in recesses drilled into bone. Paragraph 21 of the Office Action responded that Hayhurst addresses “the problem of securing the device, which matches the method claimed by Applicant.” However it is respectfully submitted that this broad characterization of the problem as being that “of securing the device” conflates the problems of fixing a device and orienting a magnetic device such that it can be magnetically held. These prior arts are no more analogous than are a magnet and anchor bolt. Although both are useful for securing a part in the most general sense, it cannot reasonably be said that one skilled in the art, looking to overcome a problem in orienting magnets for their mutual attraction, would expect to find inspiration in the fixing of an anchor bolt. Since the magnets of SU '966 are not anchored parts and since the anchor of Hayhurst is not a magnet and does not promote anastomosis, there would have been no motivation for one skilled in the art to have even looked to the bone sutures of Hayhurst for a suggestion to modify SU '966.

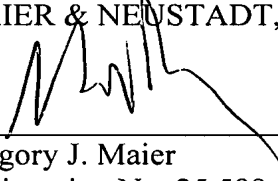
Concerning the rejections of paragraphs 13 and 16, the secondary references were cited to teach features of the dependent claims but provide no teaching for modifying SU '966 to include a radial through hole extending entirely through the disc shape of the first

magnet in a radial direction thereof so as to slidably insert the guide wire. The claims therefore define over the prior art cited in these rejections.

Applicants therefore believe that the present application is in a condition for allowance and respectfully solicit an early Notice of Allowability.

Respectfully submitted,

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